

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 18, 2020

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. BFI-2020-00055

Ex Parte: In the matter of Adopting
Revisions to the Regulations Governing
Consumer Finance Companies

ORDER TO TAKE NOTICE

Section 6.2-1535 of the Code of Virginia ("Code") provides that the State Corporation Commission ("Commission") shall adopt such regulations as it deems appropriate to effect the purposes of Chapter 15 (§ 6.2-1500 *et seq.*) of Title 6.2 of the Code ("Chapter 15"). The Commission's regulations governing consumer finance companies are set forth in Chapter 60 of Title 10 of the Virginia Administrative Code ("Chapter 60").

The Bureau of Financial Institutions ("Bureau") has submitted to the Commission proposed amendments to Chapter 60. The proposed amendments are prompted by Chapters 1215 and 1258 of the 2020 Virginia Acts of Assembly, which make extensive changes to Chapter 15 that will become effective on January 1, 2021. In this regard, the Bureau's proposed revisions are primarily designed to implement and clarify certain aspects of the legislation. Additionally, the Bureau is seeking to generally update Chapter 60 in various respects as well as augment it by incorporating an assortment of provisions from the Commission's existing regulations governing one or more other types of non-depository institutions that are also licensed and regulated under Title 6.2 of the Code.

Definitions.

Proposed section 10 VAC 5-60-5 is new, and it defines several terms that are used in Chapter 60, including "advertisement," "consumer finance loan," and "liquid assets."

Surety bond; other requirements for licensees; acquisitions.

Proposed section 10 VAC 5-60-15 is also new, and it: (i) provides that all licensees need to maintain a surety bond of at least \$25,000 notwithstanding the occurrence of certain events; (ii) specifies that the unencumbered liquid asset requirement is for each place of business; (iii) clarifies the provisions governing the relocation of approved offices; and (iv) prescribes the amount of the application fee for proposed acquisitions under § 6.2-1510 of the Code. The proposal also clarifies that licensees must continuously maintain the requirements and standards for licensure prescribed in § 6.2-1507 of the Code.

Additional business requirements and restrictions.

The proposed amendments to section 10 VAC 5-60-20 prohibit a licensee from: (i) requiring a borrower to use a particular provider or list of providers for property insurance on a motor vehicle being used as security for a loan; (ii) charging a borrower a fee for cashing a loan proceeds check; (iii) selling or assigning a loan to any other person who is not also licensed under Chapter 15; and (iv) providing false, misleading, or deceptive information to borrowers or prospective borrowers. Other proposed changes to this section clarify: (i) the requirements for receipts given to borrowers for cash payments; (ii) that a person remains subject to the provisions in Chapter 15 and Chapter 60 that are applicable to licensees in connection with all consumer finance loans that the person made while licensed notwithstanding the occurrence of certain events; and (iii) that loans made prior to January 1, 2021, that remain outstanding on or after January 1, 2021, may be collected in accordance with the preexisting terms of the loan contracts

provided that such terms were permitted by law when the loans were made. The proposed revisions also modify the time period within which a licensee must accomplish the acts required by § 6.2-1524 G of the Code.

Access partners.

Proposed section 10 VAC 5-60-25 is new, and it clarifies various provisions in § 6.2-1523.1 of the Code pertaining to access partners and prescribes the information relating to licensees' access partners that licensees will be required to periodically furnish to the Commissioner of Financial Institutions ("Commissioner").

Repayment of loans through payroll deductions.

The proposed amendments to section 10 VAC 5-60-30 update the existing protections governing the repayment of loans through allotments so that they are applicable in all cases whereby a licensee offers a borrower the option of making payments on a consumer finance loan through deductions from the borrower's payroll. The proposal also clarifies that automatic payroll deductions that are established and administered in accordance with 10 VAC 5-60-30 are not subject to § 6.2-1526 of the Code.

Advertising.

Proposed section 10 VAC 5-60-35 is new, and it requires a licensee to conspicuously disclose certain information in its advertisements, such as the licensee's name and license number. Furthermore, the proposal clarifies that licensees' advertisements must comply with the disclosure requirements for advertisements contained in Regulation Z (12 C.F.R. Part 1026), and it specifies the record retention requirements for advertisements.

Conducting other business.

Proposed section 10 VAC 5-60-45 is also new, and it addresses the conduct of any business other than consumer finance lending from a location where a licensee conducts business under Chapter 15. This section elaborates upon the procedural requirements that are established by § 6.2-1518 of the Code, particularly as they relate to notices that may be filed with the Commissioner on or after January 1, 2021. In addition, the proposal clarifies and prescribes the conditions that are applicable to a variety of other businesses that may be conducted in licensees' consumer finance offices. The conditions largely mirror those found in the Commission's existing regulations governing the conduct of other business in payday lending offices (10 VAC 5-200-100) and motor vehicle title lending offices (10 VAC 5-210-70). Furthermore, the proposal addresses the collection of outstanding payday loans and motor vehicle title loans from consumer finance offices beginning on January 1, 2021, and clarifies that in certain circumstances, the sale of insurance or enrolling of borrowers under a group insurance policy does not constitute other business for purposes of § 6.2-1518 of the Code.

Since proposed section 10 VAC 5-60-45 incorporates the Commission's existing regulations governing the conduct of open-end credit business and real estate mortgage business in consumer finance offices, the Bureau is proposing to repeal section 10 VAC 5-60-40 ("Rules governing open-end credit business in licensed consumer finance offices") and section 10 VAC 5-60-50 ("Rules governing real estate mortgage business in licensed consumer finance offices").

Books, accounts, and records; responding to requests from the Bureau; providing false, misleading, or deceptive information.

Section 10 VAC 5-60-55 is new, and it clarifies the record retention requirements for licensees, authorizes records to be retained electronically, and addresses the time period within which licensees need to respond to the Bureau's requests for written responses, books, records, documentation, or other information. Additionally, this proposed section furnishes licensees with guidance concerning the disposition of records containing consumers' personal financial information and expressly prohibits licensees from providing any false, misleading, or deceptive information to the Bureau.

Schedule prescribing annual fees paid for examination, supervision, and regulation of consumer finance companies.

Section 10 VAC 5-60-60 contains several technical amendments and clarifies that a licensee's annual fee is calculated on the basis of its total assets combined with the total assets of its affiliates conducting business in any of its authorized offices.

Enforcement; civil penalties.

Section 10 VAC 5-60-65 is new, and it clarifies that violations of Chapter 15 or the Commission's regulations governing consumer finance companies may result in civil penalties, license suspension, license revocation, or other appropriate enforcement action. This proposed section also explains how the maximum civil penalty under § 6.2-1543 of the Code is applied in the case of violations involving multiple loans or borrowers.

Commission authority.

The last new section, 10 VAC 5-60-70, preserves the Commission's authority to waive or grant exceptions to any provision in Chapter 60 for good cause shown.

NOW THE COMMISSION, based on the information supplied by the Bureau, is of the opinion and finds that the proposed regulations should be considered for adoption with a proposed effective date of January 1, 2021.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulations are attached hereto and made a part hereof.

(2) Comments or requests for a hearing on the proposed regulations must be submitted in writing to the Clerk of the Commission, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before October 23, 2020. Requests for a hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2020-00055. Interested persons desiring to submit comments or request a hearing electronically may do so by following the instructions available at the Commission's website: <https://scc.virginia.gov/casecomments/Submit-Public-Comments>.

(3) This Order and the attached proposed regulations shall be made available on the Commission's website: <https://scc.virginia.gov/pages/Case-Information>.

(4) The Commission's Division of Information Resources shall provide a copy of this Order, including a copy of the attached proposed regulations, to the Virginia Registrar of Regulations for publication in the *Virginia Register of Regulations*.

A COPY hereof, together with a copy of the proposed regulations, shall be sent by the Clerk of the Commission to the Commission's Office of General Counsel and the Commissioner of Financial Institutions, who shall send by e-mail or U.S. mail a copy of this Order, together with a copy of the proposed regulations, to all licensed consumer finance companies and such other interested persons as he may designate.

STATE CORPORATION COMMISSION

Consumer Finance Companies

10VAC5-60-5. Definitions.

A. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Act" means Chapter 15 (§ 6.2-1500 et seq.) of Title 6.2 of the Code of Virginia.

"Advertisement" means a commercial message in any medium that promotes, directly or indirectly, a consumer finance loan. The term includes a communication sent to a consumer as part of a solicitation of business, but excludes messages on promotional items such as pens, pencils, notepads, hats, calendars, etc.

"Consumer finance loan" means a loan made to an individual for personal, family, household, or other nonbusiness purposes.

"Liquid assets" for purposes of the Act and this chapter means funds held in a checking account or savings account at a depository institution, money market funds, commercial paper, and treasury bills.

B. Other terms used in this chapter shall have the meanings set forth in § 6.2-100 or § 6.2-1500 of the Code of Virginia.

10VAC5-60-15. Surety bond; other requirements for licensees; acquisitions.

A. Every licensee and applicant for a license shall file and continuously maintain in full force a surety bond that meets the requirements of § 6.2-1523.3 of the Code of Virginia. The minimum bond amount required shall be \$25,000. The form of the bond will be prescribed and provided by the commissioner.

B. If a person has filed a surety bond with the commissioner, the bond shall be retained by the commissioner notwithstanding the occurrence of any of the following events:

1. The person's application for a license is withdrawn or denied;
2. The person's license is surrendered, suspended, or revoked; or
3. The person ceases engaging in business as a consumer finance company.

C. A licensee shall at all times maintain unencumbered liquid assets of at least \$25,000 per place of business. A licensee shall upon request by the bureau submit proof that it is complying with the provisions of this subsection.

D. A proposed office location specified in an application filed under §§ 6.2-1505 or 6.2-1508.1 A of the Code of Virginia shall be deemed to be open for purposes of the Act and this chapter effective upon the date that the application was either approved by the commission or deemed approved pursuant to § 6.2-1508.1 A.

E. A licensee shall notify the bureau in writing and pay a \$250 fee within 10 days of relocating any approved office that is located either within or outside of the Commonwealth. The bureau shall furnish the licensee with a replacement license certificate that identifies the new location upon finding that the new location is in the same county, city, or town as the old location or in a contiguous county, city, or town. The licensee shall also notify the bureau in writing within 10 days of commencing business at the relocated place of business.

F. A licensee shall continuously maintain the requirements and standards for licensure prescribed in § 6.2-1507 of the Code of Virginia.

G. Any person submitting an application to acquire, directly or indirectly, 25% or more of the voting shares of a corporation or 25% or more of the ownership of any other person licensed to conduct business under the Act shall pay a nonrefundable application fee of \$500.

10VAC5-60-20. ~~Time limit for compliance~~ Additional business requirements and restrictions.

A. Licensees shall have ~~30~~ 10 calendar days after the date a consumer finance loan is paid in full, or a judgment is satisfied, or a borrower's obligation is otherwise terminated to accomplish the acts required by § 6.2-1524 G of the Code of Virginia.

~~Failure to comply within that time limit shall constitute a violation of the subsection, which violation will result in penalties as provided by law.~~

B. A licensee shall not require a borrower to purchase or maintain property insurance for a motor vehicle used as security for a consumer finance loan from or through a particular provider or list of providers.

C. If a licensee disburses loan proceeds by means of a check, neither the licensee or an affiliate or subsidiary of the licensee shall charge the borrower a fee for cashing the check.

D. A licensee shall give a borrower a signed and dated receipt for each cash payment made in person, which shall state the balance due on the consumer finance loan.

E. A licensee shall not sell or otherwise assign a consumer finance loan to any other person who is not also licensed under the Act. If a consumer finance loan is sold or assigned to another licensee, the purchaser or assignee shall be subject to the same obligations and limitations under the Act and this chapter that were applicable to the licensee that sold or assigned the loan.

F. Nothing in the Act or this chapter shall be construed to prohibit a licensee from (i) voluntarily accepting a payment on an outstanding consumer finance loan from a borrower after the date that such payment was due to the licensee or (ii) considering a payment to be timely if it is made more than 10 calendar days after its due date. However, except as otherwise permitted by the Act and this chapter, the licensee shall not charge, contract for, collect, receive, recover, or require a borrower to pay any additional interest, fees, or other amounts.

G. A licensee shall comply with all federal laws and regulations applicable to the conduct of its business, including but not limited to the Truth in Lending Act (15 USC § 1601 et seq.), Regulation Z (12 CFR Part 1026), the Equal Credit Opportunity Act (15 USC § 1691 et seq.), Regulation B (12 CFR Part 1002), and the Standards for Safeguarding Customer Information (16 CFR Part 314).

H. A person shall remain subject to the provisions of the Act and this chapter applicable to licensees in connection with all consumer finance loans that the person made while licensed as a consumer finance company notwithstanding the occurrence of any of the following events:

1. The person's license is surrendered, suspended, or revoked; or
2. The person ceases making consumer finance loans.

I. A licensee shall not provide any information to a borrower or prospective borrower that is false, misleading, or deceptive.

J. A licensee shall not engage in any business or activity that directly or indirectly results in an evasion of the provisions of the Act or this chapter.

K. Consumer finance loans made prior to January 1, 2021 that remain outstanding on or after January 1, 2021 may be collected in accordance with the preexisting terms of the loan contracts provided that such terms were permitted by law when the loans were made.

10VAC5-60-25. Access partners.

A. A licensee shall not enter into or maintain a contract with another person that requires or authorizes the person to provide any of the services described in § 6.2-1523.1 A 4 of the Code of Virginia unless (i) the person is an access partner, as defined in § 6.2-1500 of the Code of Virginia; and (ii) pursuant to such definition, the person will be providing the services from one or more physical locations in the Commonwealth.

B. A licensee's access partner shall comply with the requirements and prohibitions set forth in § 6.2-1523.1 A 2 of the Code of Virginia regardless of whether such provisions are specified in the access partner's written agreement with the licensee.

C. A licensee shall provide the commissioner with the following information in such form as the commissioner may require:

1. A list of the licensee's current access partners.
2. The physical addresses of all locations at which each access partner is performing services for the licensee.
3. A description of the services that each access partner is performing for the licensee.
4. The name, address, telephone number, and email address of an employee of the access partner who will be the point of contact for the bureau.
5. Such additional information relating to the licensee's access partners as the commissioner may require.

D. Unless otherwise directed by the commissioner, the information required by subsection C of this section shall be provided by February 15, May 15, August 15, and November 15 of each year.

10VAC5-60-30. Allotment program loans; applicability; definitions; rules—Repayment of loans through payroll deductions.

~~A. This chapter applies to all licensees under Chapter 15 (§ 6.2-1500 et seq.) of Title 6.2 of the Code of Virginia making any loan under Chapter 15 of Title 6.2 of the Code of Virginia in connection with which loan a borrower authorizes an allotment and automatic disbursement from an account for the purpose of making any payments required by the loan agreement. Such a loan is referred to herein as an "allotment program loan." This section governs when a borrower~~

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authorizes his employer to deduct funds from the borrower's payroll (i.e., wages or other compensation for services rendered) and remit such funds, directly or indirectly, to a licensee for the purpose of repaying, in whole or in part, the borrower's consumer finance loan.

~~B. As used in this chapter the following terms shall have the following meanings:~~

~~"Allotment" means payment of any part of a borrower's military pay to a financial institution as permitted under federal law and regulations.~~

~~"Automatic disbursement" means payment, by a financial institution to a licensee, of funds received pursuant to an allotment.~~

~~"Borrower" means any person in the United States military service obligated, directly or contingently, to repay a loan made by a licensee.~~

~~"Licensee" has the meaning set forth in § 6.2-1500 of the Code of Virginia.~~

~~C.1. No B. A licensee may offer a borrower the option of making payments on a consumer finance loan through deductions from the borrower's payroll. However, a licensee shall not require any allotment or automatic disbursement a borrower to (i) repay a consumer finance loan, in whole or in part, through one or more deductions from the borrower's payroll, or a borrower's execution of (ii) execute a payroll deduction authorization or the Allotment Payroll Deduction Disclosure Form appended to this chapter prescribed in subsection G of this section, as a condition to making a loan under Chapter 15 (§ 6.2-1500 et seq.) of Title 6.2 of the Code of Virginia the Act. For purposes of this subsection, a payroll deduction authorization includes a loan agreement or other document that contains a payroll deduction authorization.~~

~~2. C. A licensee making an allotment program loan If a borrower voluntarily elects to repay a consumer finance loan, in whole or in part, through payroll deductions, the licensee shall bear all costs and expenses incident to the allotment and automatic disbursement arising from or related to the establishment or administration of such deductions.~~

3. D. When making an allotment program loan giving a borrower the option of making payments on a consumer finance loan through payroll deductions, a licensee shall ~~use~~ furnish the borrower with the Allotment Payroll Deduction Disclosure Form appended to this chapter prescribed in subsection G of this section. The form shall be a single document printed or typed without alteration ~~on one side of a paper~~ in at least 12 point type separate from all other papers or documents obtained by the licensee ~~in type of size not less than that known as 12 point.~~ All blanks on the form, other than those blanks to be filled in with the name of the licensee, shall be filled in by the borrower and the filled-in form shall be signed and dated by the borrower. The completed form shall be kept in the separate loan file maintained with respect to the loan for the period specified in § 6.2-1533 of the Code of Virginia.

4. E. No licensee making an allotment program a loan that will be repaid, in whole or in part, through payroll deductions shall withhold any part of the proceeds of the loan to be applied to any payment required under the loan.

F. Automatic payroll deductions that are established and administered in accordance with the provisions of this section are not subject to § 6.2-1526 of the Code of Virginia.

Attachment: ~~Allotment Disclosure Form~~

G. The required text of the Payroll Deduction Disclosure Form shall be as follows:

ALLOTMENT PAYROLL DEDUCTION DISCLOSURE FORM

1. I, (APPLICANT'S NAME), intend to ~~apply for an allotment of my military pay~~ authorize my employer to deduct funds from my (WEEKLY / BIWEEKLY / MONTHLY) paycheck in the amount of \$(AMOUNT) per month to an account in my name at (FINANCIAL INSTITUTION).

2. I also intend to ~~authorize disbursement of funds from my account at (FINANCIAL INSTITUTION) in the amount of \$ (AMOUNT) per month for the purpose of making~~

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monthly payments on my loan with (CONSUMER FINANCE COMPANY). I understand that my employer will be sending this amount to (CONSUMER FINANCE COMPANY) each payroll period.

~~3.~~ 2. I am authorizing the ~~allotment and automatic disbursement~~ payroll deductions voluntarily and solely for my own convenience, and I acknowledge that (CONSUMER FINANCE COMPANY) has not required me to authorize the ~~allotment or automatic disbursement~~ payroll deductions, or to sign this form, as a condition to making me a loan.

~~4.~~ 3. I understand that I can cancel the ~~allotment and automatic disbursement~~ payroll deductions at any time, and I understand that I am not obligated to pay any fee or charge to any person or company, directly or indirectly, for the ~~allotment or automatic disbursement~~ payroll deductions.

(Applicant's Signature)

(Date)

10VAC5-60-35. Advertising.

A. A licensee shall conspicuously disclose the following information in its advertisements:

- 1. The name of the licensee as set forth in the license issued by the commission.
- 2. A statement that the licensee is "licensed by the Virginia State Corporation Commission."
- 3. The license number assigned by the commission to the licensee (i.e., CFI-XXX).

B. A licensee shall not deliver or cause to be delivered to a consumer any envelope or other written material that gives the false impression that the mailing or written material is an official communication from a governmental entity, unless required by the United States Postal Service.

C. Every advertisement used by, or published on behalf of, a licensee shall comply with the disclosure requirements for advertisements contained in Regulation Z (12 CFR Part 1026).

D. Every licensee shall retain for at least three years after it is last published, delivered, transmitted, or made available, an example of every advertisement used, including but not limited to solicitation letters, print media proofs, commercial scripts, and recordings of all radio and television broadcasts, but excluding copies of Internet web pages.

E. For purposes of this section, the term "conspicuously" means that the required disclosures are prominently located and readily noticeable by a potential borrower.

10VAC5-60-40. ~~Rules governing open end credit business in licensed consumer finance offices. (Repealed.)~~

~~A. The business of extending open end credit shall be conducted by a separate legal entity, and not by the consumer finance licensee. The separate, open end credit entity ("separate entity") shall comply with all applicable state and federal laws.~~

~~B. Separate books and records shall be maintained by the licensee and the separate entity, and the books and records of the licensee shall not be commingled with those of the separate entity, but shall be kept in a different location within the office. The Bureau of Financial Institutions shall be given access to the books and records of the separate entity, and shall be furnished such information as it may require in order to assure compliance with this section.~~

~~C. The expenses of the two entities will be accounted for separately and so reported to the Bureau of Financial Institutions as of the end of each calendar year.~~

~~D. Advertising or other information published by the licensee or the separate entity shall not contain any false, misleading or deceptive statement or representation concerning the rates, terms or conditions for loans or credit made or extended by either of them. The separate entity shall not make or cause to be made any misrepresentation as to its being a licensed lender, or as to the extent to which it is subject to supervision or regulation.~~

~~E. The licensee and the separate entity shall not make both a consumer finance loan and an extension of open end credit to the same borrower or borrowers as part of the same transaction.~~

~~F. Except as authorized by the Commissioner of Financial Institutions, or by order of the State Corporation Commission, insurance, other than credit life insurance, credit accident and sickness insurance, credit involuntary unemployment insurance, and noncredit related life insurance sold pursuant to 10VAC5-70-10 et seq. shall not be sold in licensed consumer finance offices in connection with any extension of open end credit by the separate entity.~~

~~G. When the balance owed under an open end credit agreement is paid, finance charges will be assessed only to the date of payment.~~

10VAC5-60-45. Conducting other business.

A. This section governs the conduct of any business other than consumer finance lending where a licensed consumer finance lending business is conducted. As used in this section, the term "other business operator" refers to a licensed consumer finance company or third party, including an affiliate or subsidiary of the licensed consumer finance company, who conducts or wants to conduct other business from one or more consumer finance offices.

1. This section shall not apply to any other business that is transacted solely with persons residing outside of the Commonwealth.

2. If a licensee accepts loan applications, sends or receives loan-related information or documents, disburses loan funds, or accepts loan payments on or through the licensee's website or mobile application, and any other products or services are or will be offered or sold to Virginia residents on or through such website or mobile application, then the offer or sale of such other products or services shall constitute the conduct of other business and shall be subject to all of the provisions of this section to the same extent as if such

other business was conducted by an other business operator from the licensee's consumer finance offices.

B. Notwithstanding any provision of this section or authority obtained under § 6.2-1518 of the Code of Virginia or a predecessor statute prior to January 1, 2021, a licensee shall not make consumer finance loans at the same location at which the licensee, or any affiliate or subsidiary of the licensee, conducts business under Chapter 18 (§ 6.2-1800 et seq.) or Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2 of the Code of Virginia. However, if prior to January 1, 2021, a licensee obtained authority under § 6.2-1518 or a predecessor statute for the licensee or its affiliate or subsidiary to make payday loans or motor vehicle title loans from the licensee's consumer finance offices, then the licensee or its affiliate or subsidiary may continue collecting payments on any outstanding payday loans or motor vehicle title loans (i) in accordance with the preexisting terms of the loan contracts provided that such terms were permitted by law when the loans were made, and (ii) subject to the general conditions set forth in subsection F of this section.

C. The sale of insurance or enrolling of borrowers under a group insurance policy by a licensee shall not constitute other business for purposes of § 6.2-1518 of the Code of Virginia or this section when such insurance covers potential risks or losses associated with consumer finance loans made by the licensee. This subsection shall be applicable only to (i) credit life insurance, credit accident and sickness insurance, credit involuntary unemployment insurance, non-filing insurance, and property insurance; and (ii) other types of insurance that the commissioner determines meet the condition prescribed in this subsection.

D. If prior to January 1, 2021, a licensee obtained authority under § 6.2-1518 of the Code of Virginia or a predecessor statute for an other business operator to conduct other business in its consumer finance offices, then the following rules shall govern:

1. If the other business is identified in subsections G through R of this section, then the other business shall be conducted in accordance with (i) the general conditions set forth

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in subsection F of this section, and (ii) the specific conditions prescribed for such business in subsections G through R of this section. These conditions shall supersede the conditions that were prescribed by regulation or established by the commissioner at the time the authority was obtained. Subject to the conditions referenced in this subsection, the other business may be conducted in any or all of the licensee's consumer finance offices.

2. If the other business is not identified in subsections G through R of this section, then the other business shall be conducted in accordance with (i) the general conditions set forth in subsection F of this section, and (ii) the most recent set of conditions that were established by the commissioner. Subject to these conditions, the other business may be conducted in any or all of the licensee's consumer finance offices.

E. Beginning January 1, 2021, if a licensee seeks to conduct the business of making consumer finance loans from one or more of its consumer finance offices in which an other business operator will conduct other business, then the licensee shall give the commissioner written notice at least 30 days prior to the conduct of the other business, pay a fee of \$300, and provide the commissioner with any additional information pertaining to the other business that the commissioner may require.

1. If the other business specified in the licensee's written notice is identified in subsections G through R of this section, then the other business shall be conducted in accordance with (i) the general conditions set forth in subsection F of this section, and (ii) the specific conditions prescribed for such business in subsections G through R of this section.

2. If the other business specified in the licensee's written notice is not identified in subsections G through R of this section, then the following rules shall govern:

a. The commissioner may, after providing notice to the licensee and offering the licensee an opportunity to request a hearing before the commission, prohibit or establish additional conditions for the conduct of such other business in the licensee's consumer finance offices if the commissioner finds that the other business is or would otherwise be (i) of such a nature or conducted in such a manner as to conceal or facilitate a violation or evasion of the provisions of the Act or this chapter; (ii) contrary to the public interest; or (iii) conducted in an unlawful manner.

b. Unless the conduct of such other business is prohibited, the other business shall be conducted in accordance with (i) the general conditions set forth in subsection F of this section, and (ii) any specific conditions established by the commissioner pursuant to this subdivision.

3. Subject to the other provisions in this subsection and except as otherwise provided in subdivision E 2 of this section, the other business may be conducted in any or all of the licensee's consumer finance offices beginning on the earlier of (i) 30 days after the licensee furnishes the commissioner with the written notice, payment, and any additional information required by the commissioner, or (ii) the date the commissioner notifies the licensee that the other business may be conducted in the licensee's offices.

F. All other businesses conducted from a licensee's consumer finance offices shall be conducted in accordance with the following conditions:

1. The licensee shall not make a consumer finance loan to a borrower to enable the borrower to purchase or pay any amount owed in connection with the (i) goods or services sold, or (ii) loans offered, facilitated, or made, by the other business operator from the licensee's consumer finance offices.

2. The other business operator shall comply with all federal and state laws and regulations applicable to its other business, including any applicable licensing or registration requirements.

3. The other business operator shall not use or cause to be published any advertisement or other information that contains any false, misleading, or deceptive statement or representation concerning its other business, including the rates, terms, or conditions of the products, services, or loans that it offers. The other business operator shall not make or cause to be made any misrepresentation as to (i) its being licensed to conduct the other business, or (ii) the extent to which it is subject to supervision or regulation.

4. The licensee shall not make a consumer finance loan or vary the terms of a consumer finance loan on the condition or requirement that a person also (i) purchase a good or service from, or (ii) obtain a loan from or through, the other business operator. The other business operator shall not (a) sell its goods or services, (b) offer, facilitate, or make loans, or (c) vary the terms of its goods, services, or loans, on the condition or requirement that a person also obtain a consumer finance loan from the licensee.

5. The other business operator shall maintain books and records for its other business separate and apart from the licensee's consumer finance lending business and in a different location within the licensee's consumer finance offices. The bureau shall be given access to all such books and records and be furnished with any information and records that it may require in order to determine compliance with all applicable conditions, laws, and regulations.

G. The following additional conditions shall be applicable to conducting open-end credit business from a licensee's consumer finance offices, which for purposes of this section includes a line of credit business, a revolving loan business, and the servicing of open-end loans, lines of credit, and revolving loans:

1. The licensee shall not make a consumer finance loan to a person if (i) the person has an outstanding open-end loan from the other business operator or (ii) on the same day the person repaid or satisfied in full an open-end loan from the other business operator.

2. The other business operator shall not make an open-end loan to a person if (i) the person has an outstanding consumer finance loan from the licensee or (ii) on the same day the person repaid or satisfied in full a consumer finance loan from the licensee.

3. The licensee and other business operator shall not make a consumer finance loan and an open-end loan contemporaneously or in response to a single request for a loan or credit.

4. The licensee and other business operator shall provide each applicant for a consumer finance loan or open-end loan with a separate disclosure, signed by the applicant, that clearly identifies all of the loan products available in the licensee's consumer finance offices along with the corresponding Annual Percentage Rate, interest rate, and other costs associated with each loan product. The disclosure shall also identify the collateral, if any, that will be used to secure repayment of each loan product.

H. The following additional conditions shall be applicable to conducting business under Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia from a licensee's consumer finance offices:

1. Pursuant to § 6.2-1507 A 4 of the Code of Virginia, the other business shall be conducted by a person other than the licensee or an affiliate or subsidiary of the licensee.

2. The licensee shall not make a consumer finance loan to a person if (i) the person has an outstanding short-term loan from the other business operator or (ii) on the same day the person repaid or satisfied in full a short-term loan from the other business operator.

3. The other business operator shall not make a short-term loan to a person if (i) the person has an outstanding consumer finance loan from the licensee or (ii) on the same day the person repaid or satisfied in full a consumer finance loan from the licensee.

4. The licensee and other business operator shall not make a consumer finance loan and a short-term loan contemporaneously or in response to a single request for a loan or credit.

5. The licensee and other business operator shall provide each applicant for a consumer finance loan or short-term loan with a separate disclosure, signed by the applicant, that clearly identifies all of the loan products available in the licensee's consumer finance offices along with the corresponding Annual Percentage Rate, interest rate, and other costs associated with each loan product. The disclosure shall also identify the collateral, if any, that will be used to secure repayment of each loan product.

I. The following additional conditions shall be applicable to conducting business under Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2 of the Code of Virginia from a licensee's consumer finance offices:

1. Pursuant to § 6.2-1507 A 4 of the Code of Virginia, the other business shall be conducted by a person other than the licensee or an affiliate or subsidiary of the licensee.

2. The licensee shall not make a consumer finance loan to a person if (i) the person has an outstanding motor vehicle title loan from the other business operator or (ii) on the same day the person repaid or satisfied in full a motor vehicle title loan from the other business operator.

3. The other business operator shall not make a motor vehicle title loan to a person if (i) the person has an outstanding consumer finance loan from the licensee or (ii) on the same day the person repaid or satisfied in full a consumer finance loan from the licensee.

4. The licensee and other business operator shall not make a consumer finance loan and a motor vehicle title loan contemporaneously or in response to a single request for a loan or credit.

5. The licensee and other business operator shall provide each applicant for a consumer finance loan or motor vehicle title loan with a separate disclosure, signed by the applicant, that clearly identifies all of the loan products available in the licensee's consumer finance offices along with the corresponding Annual Percentage Rate, interest rate, and other costs associated with each loan product. The disclosure shall also identify the collateral, if any, that will be used to secure repayment of each loan product.

J. The following additional condition shall be applicable to conducting a mortgage lender or mortgage broker business from a licensee's consumer finance offices: the licensee and other business operator shall not make a consumer finance loan and make or broker a mortgage loan contemporaneously or in response to a single request for a loan or credit.

K. The following additional conditions shall be applicable to conducting an auto club membership business from a licensee's consumer finance offices:

1. A membership shall not be sold to any person who does not own or lease an automobile, motorcycle, mobile home, truck, van, or other vehicle operated on public highways and streets.

2. A renewal membership shall not be offered or sold more than one month prior to the expiration of a current membership term.

3. A membership shall not be offered or sold for more than a three-year term.

L. The following additional conditions shall be applicable to conducting business as an authorized delegate or agent of a money order seller or money transmitter from a licensee's consumer finance offices:

1. The other business operator shall be and remain a party to a written agreement to act as an authorized delegate or agent of a person licensed or exempt from licensing as a money order seller or money transmitter under Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2 of the Code of Virginia.

2. The other business operator shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a licensed or exempt money order seller or money transmitter with whom it has a written agreement.

M. The following additional conditions shall be applicable to conducting the business of (i) tax preparation and/or electronic tax filing services, or (ii) facilitating third party tax preparation and/or electronic tax filing services, from a licensee's consumer finance offices:

1. The other business operator shall not engage in the business of (i) accepting funds for transmission to the Internal Revenue Service or other government instrumentalities, or (ii) receiving tax refunds for delivery to individuals, unless licensed or exempt from licensing under Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2 of the Code of Virginia.

2. The licensee shall not make a consumer finance loan that is secured by an interest in a borrower's tax refund.

N. The following additional conditions shall be applicable to conducting the business of facilitating or arranging tax refund anticipation loans or tax refund payments from a licensee's consumer finance offices:

1. The other business operator shall not engage in the business of receiving tax refunds or tax refund payments for delivery to individuals unless licensed or exempt from licensing under Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2 of the Code of Virginia.

2. The other business operator shall not facilitate or arrange a tax refund anticipation loan or tax refund payment to enable a person to pay any amount owed to the licensee as a result of a consumer finance loan transaction.

3. The other business operator and the licensee shall not facilitate or arrange a tax refund anticipation loan or tax refund payment and make a consumer finance loan contemporaneously or in response to a single request for a loan or credit.

4. The licensee shall not make a consumer finance loan that is secured by an interest in a borrower's tax refund.

5. The licensee and other business operator shall provide each applicant for a consumer finance loan or tax refund anticipation loan with a separate disclosure, signed by the applicant, that clearly identifies all of the loan products available in the licensee's consumer finance offices along with the corresponding Annual Percentage Rate, interest rate, and other costs associated with each loan product. The disclosure shall also identify the collateral, if any, that will be used to secure repayment of each loan product.

O. The following additional conditions shall be applicable to conducting business as a check casher from a licensee's consumer finance offices:

1. Pursuant to § 6.2-2107 of the Code of Virginia, the check casher business shall be conducted by a person other than the licensee unless the licensee would not be required to be registered under Chapter 21 (§ 6.2-2100 et seq.) of Title 6.2 of the Code of Virginia.

2. The other business operator shall not charge a fee to cash a check issued by the licensee or any other person operating in the licensee's consumer finance offices.

P. The following additional condition shall be applicable to conducting the business of operating an automated teller machine from a licensee's consumer finance offices: the other business operator shall not charge a fee or receive other compensation in connection with the

use of its automated teller machine by a person when the person is withdrawing funds in order to make a payment on a loan that was made by the licensee or any other lender conducting business from the licensee's consumer finance offices.

Q. The following additional condition shall be applicable to conducting the business of selling noncredit-related life insurance from a licensee's consumer finance offices: the licensee and other business operator shall comply with 10VAC5-70, Sale of Noncredit-Related Life Insurance in Consumer Finance Offices.

R. The conduct of the following businesses from a licensee's consumer finance offices shall have no conditions other than the conditions prescribed in subsection F of this section:

1. Mortgage servicing business.

2. Sales finance business.

S. Notwithstanding any other provision of this section, the commissioner may, after providing notice to affected licensees and offering them an opportunity to request a hearing before the commission, establish additional conditions for the conduct of any other business in consumer finance offices if the commissioner finds that the other business is or would otherwise be (i) of such a nature or conducted in such a manner as to conceal or facilitate a violation or evasion of the provisions of the Act or this chapter; (ii) contrary to the public interest; or (iii) conducted in an unlawful manner.

T. Failure by a licensee or other business operator to comply with any provision of this section or any condition established by the commissioner, or failure by a licensee to comply with the Act or this chapter, may result in revocation of the authority to conduct other business or any form of enforcement action specified in 10VAC5-60-65.

~~10VAC5-60-50. Rules governing real estate mortgage business in licensed consumer finance offices. (Repealed.)~~

~~A. The business of making or purchasing loans secured by liens on real estate shall be conducted by a separate legal entity, and not by the consumer finance licensee. This separate, mortgage entity ("separate entity") shall comply with all applicable state and federal laws.~~

~~B. Separate books and records shall be maintained by the consumer finance licensee and the separate entity, and the books and records of the consumer finance licensee shall not be commingled with those of the separate entity, but shall be kept in a different location within the office. The Bureau of Financial Institutions shall be given access to the books and records of the separate entity, and shall be furnished such information as it may require in order to assure compliance with this section.~~

~~C. The expenses of the two entities shall be accounted for separately and so reported to the Bureau of Financial Institutions as of the end of each calendar year.~~

~~D. Advertising or other information published by the consumer finance licensee or the separate entity shall not contain any false, misleading or deceptive statement or representation concerning the rates, terms or conditions for loans made by either of them. The separate entity shall not make or cause to be made any misrepresentation as to its being a licensed lender, or as to the extent to which it is subject to supervision or regulation.~~

~~E. The consumer finance licensee and the separate entity shall not make both a consumer finance loan and a real estate mortgage loan to the same borrower or borrowers as part of the same transaction.~~

~~F. Any compensation paid by the separate entity to any other party for the referral of loans, pursuant to an agreement or understanding between the separate entity and such other party,~~

~~shall be an expense borne entirely by the separate entity. Such expense shall not be charged directly or indirectly to the borrower.~~

~~G. Except as authorized by the Commissioner of Financial Institutions, or by order of the State Corporation Commission, insurance, other than credit life insurance, credit accident and sickness insurance, credit involuntary unemployment insurance, and noncredit related life insurance sold pursuant to 10VAC5-70-10 et seq. shall not be sold in licensed consumer finance offices in connection with any mortgage loan made or purchased by the separate entity.~~

~~H. No interest in collateral other than real estate shall be taken in connection with any real estate mortgage loan made or purchased by the separate entity.~~

10VAC5-60-55. Books, accounts, and records; responding to requests from the bureau; providing false, misleading, or deceptive information.

A. A licensee shall maintain in its approved offices such books, accounts, and records as the bureau may reasonably require in order to determine whether the licensee is complying with the Act and this chapter. Such books, accounts, and records shall be maintained (i) for at least three years after a consumer finance loan is satisfied or paid in full, or a consumer finance loan application is denied; and (ii) separate and apart from those relating to any other business conducted in the approved offices.

B. A licensee may maintain records electronically provided that (i) the records are readily available for examination by the bureau and (ii) the licensee complies with the Uniform Electronic Transactions Act (§ 59.1-479 et seq. of the Code of Virginia) and the Electronic Signatures in Global and National Commerce Act (15 USC § 7001 et seq.).

C. If a licensee disposes of records containing a consumer's personal financial information following the expiration of any applicable record retention periods, such records shall be

shredded, incinerated, or otherwise disposed of in a secure manner. Licensees may arrange for service from a business record destruction vendor.

D. When the bureau requests a written response, books, records, documentation, or other information from a licensee in connection with the bureau's investigation, enforcement, or examination of compliance with applicable laws, the licensee shall deliver a written response as well as any requested books, records, documentation, or information within the time period specified in the bureau's request. If no time period is specified, a written response as well as any requested books, records, documentation, or information shall be delivered by the licensee to the bureau not later than 30 days from the date of such request. In determining the specified time period for responding to the bureau and when considering a request for an extension of time to respond, the bureau shall take into consideration the volume and complexity of the requested written response, books, records, documentation, or information, and such other factors as the bureau determines to be relevant under the circumstances. Requests made by the bureau pursuant to this subsection are deemed to be in furtherance of the investigation and examination authority provided for in §§ 6.2-1530 and 6.2-1531 of the Code of Virginia.

E. A licensee shall not provide any false, misleading, or deceptive information to the bureau.
10VAC5-60-60. Schedule prescribing annual fees paid for examination, supervision, and regulation of consumer finance licenses companies.

Pursuant to § 6.2-1532 of the Code of Virginia, the following schedule sets the fees to be paid annually by ~~consumer finance licensees for their licenses, and~~ to defray the costs of examination, supervision, and regulation of ~~licensed consumer finance offices~~ licensees by the bureau:

Minimum fee - \$300 per office open January 1 of the current calendar year.

In addition to the minimum fee, the following fee based on total assets:

SCHEDULE

Total Assets	Fee
Over \$300,000 - \$750,000	\$.85 per \$1,000 or fraction thereof
\$750,000 - \$2,000,000	\$.70 per \$1,000 or fraction thereof
Over \$2,000,000	\$.55 per \$1,000 or fraction thereof

The annual fee for each licensee will be computed on the basis of its total assets combined with the total assets of ~~all other businesses conducted~~ its affiliates conducting business in any of its ~~licensed~~ authorized offices as of the close of business December 31 of the preceding calendar year. The amounts of such total assets will be derived from the annual reports which § 6.2-1534 of the Code of Virginia requires licensees to file with the ~~Bureau of Financial Institutions~~ bureau on or before the first day of April of each year.

In accordance with § 6.2-1532 of the Code of Virginia, annual fees for any given calendar year will be assessed on or before May 1 of that year and must be paid on or before June 1 of that year. ~~Fees are to be assessed using the foregoing schedule for the calendar year which began January 1, 1983. This fee schedule will be in effect until it is amended or revoked by order of the Commission.~~

10VAC5-60-65. Enforcement; civil penalties.

A. Failure to comply with any provision of the Act or this chapter may result in civil penalties, license suspension, license revocation, or other appropriate enforcement action.

B. Pursuant to § 6.2-1543 of the Code of Virginia, a licensee shall be subject to a separate civil penalty of up to \$10,000 for every violation of the Act, this chapter, or a commission order that occurred knowingly or without the exercise of due care to prevent the violation. If a licensee violates a provision of the Act, this chapter, or a commission order in connection with multiple loans or borrowers, the licensee shall be subject to a separate civil penalty per violation for each loan or borrower.

10VAC5-60-70. Commission authority.

The commission may, at its discretion, waive or grant exceptions to any provision of this chapter for good cause shown.

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